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HOUSE BILL 342

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

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AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE URANIUM LEGACY
CLEANUP ACT; PROVIDING FOR THE ADMINISTRATION OF THAT ACT AND
CLEANUP ACTIONS TO BE TAKEN PURSUANT TO IT; CREATING REVENUE
SOURCES TO FUND URANIUM LEGACY CLEANUP ACTIVITIES; AMENDING AND
ENACTING CERTAIN SECTIONS OF THE NMSA 1978; MAKING
APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 6 of this act may be cited as the "Uranium Legacy
Cleanup Act".

Section 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Uranium Legacy Cleanup Act:

A. "committee" means the uranium legacy cleanup
committee;

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1 B. "department" means the energy, minerals and
2 natural resources department;

3 C. "financial assistance" means providing grants or
4 loans on terms and conditions approved by the secretary for
5 qualified projects;

6 D. "fund" means the uranium legacy cleanup fund;

7 E. "qualified project" means a project selected by
8 the secretary for financial assistance; and

9 F. "secretary" means the secretary of energy,
10 minerals and natural resources.

11 Section 3. [NEW MATERIAL] URANIUM LEGACY CLEANUP
12 COMMITTEE CREATED.--

13 A. The "uranium legacy cleanup committee" is
14 created and is administratively attached to the department.
15 Staff for the committee shall be provided by the mining and
16 minerals division of the department. It is not necessary that
17 members be appointed to the committee nor that the committee be
18 activated until such time as the fund receives money pursuant
19 to Subsection A of Section 4 of the Uranium Legacy Cleanup Act.

20 B. The committee consists of seven voting members
21 and five nonvoting members.

22 C. The voting ex-officio members are:

23 (1) the secretary of environment, or the
24 secretary's designee from the department of environment;

25 (2) the secretary of health, or the

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1 secretary's designee from the department of health; and

2 (3) the secretary of Indian affairs, or the
3 secretary's designee from the Indian affairs department.

4 D. The following four voting members, who shall
5 have knowledge of or experience with the extent of
6 contamination resulting from past uranium mining and milling
7 activities in northwest New Mexico or with human health
8 problems resulting from exposure to such contamination, shall
9 be appointed by the governor:

10 (1) one person who is a member of the Pueblo
11 of Acoma or the Pueblo of Laguna;

12 (2) one person who is a member of the Navajo
13 Nation;

14 (3) one person who is a resident of New Mexico
15 and who has education and experience in the field of primary
16 health care or public health; and

17 (4) one person who is a resident of New Mexico
18 and who has education and experience in the field of uranium
19 mining and milling activities.

20 E. The five nonvoting members are:

21 (1) one representative from the federal
22 environmental protection agency, region 6, appointed by the
23 regional director;

24 (2) one representative from the federal
25 environmental protection agency, region 9, appointed by the

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1 regional director;

2 (3) one representative from the Albuquerque
3 area Indian health service, appointed by the area director;

4 (4) one representative from the Navajo area
5 Indian health service, appointed by the area director; and

6 (5) one representative from the Navajo Nation
7 environmental protection agency or division of natural
8 resources, appointed by the president of the Navajo Nation.

9 F. The committee shall meet at the call of the
10 chair, or whenever four voting members submit a request in
11 writing to the chair, but not less than twice each calendar
12 year. A majority of voting members constitutes a quorum for
13 the transaction of business. The affirmative vote of at least
14 a majority of a quorum shall be necessary for an action to be
15 taken by the committee.

16 G. Each appointed member of the committee shall
17 serve a two-year term. Vacancies shall be filled by
18 appointment by the original appointing authority for the
19 remainder of the unexpired term.

20 H. Members of the committee appointed by the
21 governor may receive per diem and mileage as provided for
22 nonsalaried public officers in the Per Diem and Mileage Act and
23 shall receive no other compensation, perquisite or allowance.

24 I. The committee shall:

25 (1) establish procedures, practices and

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1 policies governing the committee's activities;

2 (2) recommend proposed rules governing terms,
3 conditions and priorities for providing financial assistance
4 for the cleanup of sites contaminated by uranium mining and
5 milling activities that occurred prior to July 1, 2008,
6 including developing application and evaluation procedures and
7 forms and qualifications for applicants and for projects;

8 (3) review applications for financial
9 assistance for proposed qualified projects and submit its
10 comments on the payments to the secretary; and

11 (4) review uranium legacy cleanup actions of
12 the department and of other persons receiving funds from the
13 fund and submit comments to the secretary.

14 Section 4. [NEW MATERIAL] URANIUM LEGACY CLEANUP FUND--
15 CREATED--PURPOSE--APPROPRIATIONS.--

16 A. The "uranium legacy cleanup fund" is created as
17 a nonreverting fund in the state treasury and shall be
18 administered by the department. The fund shall consist of
19 money from distributions of the uranium legacy cleanup surtax
20 pursuant to Section 7-1-6.59 NMSA 1978; money that is repaid
21 from loans approved by the committee; and money that is
22 appropriated or donated or that otherwise accrues to the fund.
23 Money in the fund shall be invested by the state investment
24 officer in the manner that land grant permanent funds are
25 invested pursuant to Chapter 6, Article 8 NMSA 1978. Income

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1 from investment of the fund shall be credited to the fund.

2 B. The department shall establish procedures and
3 adopt rules as required to administer the fund and to originate
4 grants or loans for qualified projects approved by the
5 secretary.

6 C. Money in the fund is appropriated to the
7 department to carry out the purposes of the Uranium Legacy
8 Cleanup Act by providing financial assistance for qualified
9 projects. Money shall be disbursed from the fund only on
10 warrant of the secretary of finance and administration upon
11 vouchers signed by the secretary of energy, minerals and
12 natural resources or the secretary's authorized representative.
13 Any unexpended or unencumbered balance remaining at the end of
14 a fiscal year shall not revert to the general fund.

15 Section 5. [NEW MATERIAL] DUTIES OF THE SECRETARY.--

16 A. Expenditures from the fund for financial
17 assistance shall be approved by the secretary for qualified
18 projects directed at the elimination or reduction of actual or
19 potential exposure of persons to contamination that may have
20 resulted from uranium mining or milling activities that
21 occurred prior to July 1, 2008.

22 B. The secretary, after recommendations from the
23 committee, shall adopt rules for applying for financial
24 assistance from the fund and for establishing priorities for
25 qualified projects. The priorities for approving qualified

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1 projects shall be based upon:

2 (1) the protection of public health, safety
3 and welfare;

4 (2) the protection of the environment from
5 existing or potential contamination;

6 (3) the ability to leverage funds available
7 from other sources to implement qualified projects;

8 (4) the degree to which a qualified project
9 can be completed with the requested funding;

10 (5) the size of the area to be included with
11 the qualified project;

12 (6) the number of persons affected or
13 potentially affected by contamination at the site of the
14 qualified project;

15 (7) the level of actual or potential radiation
16 exposure at the site of the qualified project;

17 (8) the potential for an increase of the area
18 contaminated or potential exposure to persons if the site of a
19 qualified project is not cleaned up;

20 (9) the lack of any potentially responsible
21 party obligated to conduct a cleanup pursuant to any federal,
22 state or tribal law;

23 (10) the potential uses for the site following
24 the completion of the qualified project; and

25 (11) the legal authority of the applicant to

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1 conduct cleanup activities on the proposed site.

2 C. Financial assistance may be provided to
3 qualified projects in which the state of New Mexico, other
4 state governments, the federal government, tribal governments
5 and other public and private entities are participating.

6 Section 6. [NEW MATERIAL] REPORT TO LEGISLATURE.--The
7 secretary shall report to the appropriate interim legislative
8 committee no later than October 1 of each year regarding the
9 total expenditures from the fund for the previous fiscal year,
10 the purposes for which expenditures were made, an analysis of
11 the progress of the projects funded and proposals for
12 legislative action in the subsequent legislative session.

13 Section 7. Section 7-1-6.20 NMSA 1978 (being Laws 1985,
14 Chapter 65, Section 6, as amended) is amended to read:

15 "7-1-6.20. IDENTIFICATION OF MONEY IN EXTRACTION TAXES
16 SUSPENSE FUND--DISTRIBUTION.--

17 A. Except as provided in Subsection B of this
18 section, after the necessary disbursements have been made from
19 the extraction taxes suspense fund, the money remaining in the
20 suspense fund as of the last day of the month shall be
21 identified by tax source and distributed or transferred in
22 accordance with the provisions of Sections 7-1-6.21 through
23 7-1-6.23 and 7-1-6.59 NMSA 1978. After the necessary
24 distributions and transfers, any balance, except for
25 remittances unidentified as to source or disposition, shall be

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1 transferred to the general fund.

2 B. Payments on assessments issued by the department
3 pursuant to the Oil and Gas Conservation Tax Act, the Oil and
4 Gas Emergency School Tax Act, the Oil and Gas Ad Valorem
5 Production Tax Act and the Oil and Gas Severance Tax Act shall
6 be held in the extraction taxes suspense fund until the
7 secretary determines that there is no substantial risk of
8 protest or other litigation, whereupon after the necessary
9 disbursements have been made from the extraction taxes suspense
10 fund, the money remaining in the suspense fund as of the last
11 day of the month attributed to these payments shall be
12 identified by tax source and distributed or transferred in
13 accordance with the provisions of Sections 7-1-6.21 through
14 7-1-6.23 NMSA 1978. After the necessary distributions and
15 transfers, any balance, except for remittance unidentified as
16 to source or disposition, shall be transferred to the general
17 fund."

18 Section 8. A new section of the Tax Administration Act,
19 Section 7-1-6.59 NMSA 1978, is enacted to read:

20 "7-1-6.59. [NEW MATERIAL] DISTRIBUTION TO URANIUM LEGACY
21 CLEANUP FUND--URANIUM LEGACY CLEANUP SURTAX.--A distribution
22 pursuant to Section 7-1-6.20 NMSA 1978 of the net receipts
23 attributable to the uranium legacy cleanup surtax shall be made
24 to the uranium legacy cleanup fund."

25 Section 9. A new section of the Resources Excise Tax Act

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1 is enacted to read:

2 "[NEW MATERIAL] RATE AND MEASURE OF SURTAX--DENOMINATION
3 AS "URANIUM LEGACY CLEANUP SURTAX".--

4 A. For the privilege of severing or processing
5 uranium, there is imposed a "uranium legacy cleanup surtax" on
6 any severer or processor of uranium in New Mexico. The uranium
7 legacy cleanup surtax shall be imposed at a rate of two percent
8 on the taxable value of uranium severed or processed.

9 B. For the privilege of severing or processing in
10 New Mexico uranium that is owned by another person and not
11 otherwise taxed by Subsection A of this section, there is
12 imposed on the service charge of any person severing or
13 processing uranium owned by another person a uranium legacy
14 cleanup surtax at the same rate that would be imposed on an
15 owner of uranium for performing the same function."

16 Section 10. SEVERABILITY.--If any part or application of
17 the Uranium Legacy Cleanup Act is held invalid, the remainder
18 or its application to other situations or persons shall not be
19 affected.

20 Section 11. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is January 1, 2009.